



DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 252

[Docket DARS-2024-0018]

RIN 0750-AM03

Defense Federal Acquisition Regulation Supplement: Procurement Technical Assistance Program (DFARS Case 2024-D006)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a section of the National Defense Authorization Act for Fiscal Year 2024 that modifies certain definitions associated with the Procurement Technical Assistance Program.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2024-D006, using either of the following methods:

- o *Federal eRulemaking Portal:* <https://www.regulations.gov>.

Search for DFARS Case 2024-D006. Select "Comment" and follow the instructions to submit a comment. Please include "DFARS Case 2024-D006" on any attached documents.

o *Email: osd.dfars@mail.mil.* Include DFARS Case 2024-D006 in the subject line of the message.

Comments received generally will be posted without change to <https://www.regulations.gov>, including any personal information provided. To confirm receipt of your comment(s), please check <https://www.regulations.gov>, approximately two to three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Jeanette Snyder, telephone 703-508-7524.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is proposing to revise the DFARS to implement section 853 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2024 (Pub. L. 118-31; 10 U.S.C. 4951). Section 853 amends the definitions of nonprofit organization and business entities at 10 U.S.C. 4951 for the Procurement Technical Assistance Program. DoD implements the requirements at 10 U.S.C. 4951 through its APEX Accelerators (formerly known as Procurement Technical Assistance Centers), which are managed by the DoD Office of Small Business Programs.

II. Discussion and Analysis

DoD is proposing to modify the contract clause at DFARS 252.205-7000, Provision of Information to Cooperative Agreement Holders, to implement section 853 of the NDAA for FY 2024. The clause requires contractors to provide cooperative agreement holders, upon request, with a list of the contractor's employees

or offices responsible for entering into subcontracts under defense contracts. This proposed rule amends the definition of cooperative agreement holder in the clause by removing "private" from "a private, nonprofit organization" and adding a reference to 10 U.S.C. 4951 to update the definition of business entities. Minor edits are made to align the clause with DFARS drafting conventions.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT), for Commercial Products (Including Commercially Available Off-the-Shelf (COTS) Items), and for Commercial Services

This proposed rule amends the clause at DFARS 252.205-7000, Provision of Information to Cooperative Agreement Holders. However, this proposed rule does not impose any new requirements on contracts at or below the SAT, for commercial products including COTS items, or for commercial services. The clause will continue to not apply to acquisitions at or below the SAT, and will continue to apply to acquisitions of commercial products excluding COTS items, and to acquisitions of commercial services.

IV. Expected Impact of the Rule

This proposed rule, when finalized, is expected to impact DoD contractors whose contracts include the clause at DFARS 252.205-7000. The clause requires contractors to provide cooperative agreement holders under the Procurement Technical Assistance Program, upon request, with a list of the contractor's employees

or offices responsible for entering into subcontracts under defense contracts. As a result of the proposed changes, these contractors may be required to provide the list to different entities that are cooperative agreement holders under the Procurement Technical Assistance Program.

The changes in section 853 allow any type of nonprofit organization to be a cooperative agreement holder under the Procurement Technical Assistance Program. In addition, business entities, including corporations, associations, partnerships, limited liability companies, limited liability partnerships, consortia, not-for-profit, or other legal entities will also be able to be a cooperative agreement holder. These changes are reflected in the proposed revisions to the clause at DFARS 252.205-7000. As a result of the section 853 changes to the Procurement Technical Assistance Program, there may be an increase in the number of entities able to become cooperative agreement holders under the Procurement Technical Assistance Program.

V. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and

benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, as amended.

VI. Regulatory Flexibility Act

DoD does not expect this proposed rule, when finalized, to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because this rule merely updates definitions for the cooperative agreement holders under the Procurement Technical Assistance Program. However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

This proposed rule is necessary to implement section 853 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2024 (Pub. L. 118-31; 10 U.S.C. 4951). Section 853 modifies the definitions of nonprofit organization and business entities at 10 U.S.C. 4951 for the Procurement Technical Assistance Program. This proposed rule implements the revised definitions in the contract clause at DFARS 252.205-7000, Provision of Information to Cooperative Agreement Holders. The clause requires contractors to provide cooperative agreement holders under the Procurement Technical Assistance Program, upon request, with a list of the contractor's employees or offices responsible for entering into subcontracts under defense contracts.

The objective of this proposed rule is to implement section 853 of the NDAA for FY 2024, which is the legal basis for the rule.

According to data from the Procurement Business Intelligence Service, in the last three fiscal years, DoD awarded contracts that included the clause at 252.205-7000 to unique small entities as follows: 5,652 in fiscal year 2021, 5,127 in fiscal year 2022, and 5,663 in fiscal year 2023. This averages out to approximately 5,480 per fiscal year. Therefore, DoD estimates that the number of small entities to which this rule will apply is approximately 5,480.

This proposed rule does not impose any new reporting, recordkeeping, or other compliance requirements for small entities.

This proposed rule does not duplicate, overlap, or conflict with any other Federal rules.

DoD did not identify any significant alternatives to the proposed rule that would accomplish the stated objectives of the statute. Any impact on small entities is expected to be beneficial.

DoD invites comments from small business concerns and other interested parties on the expected impact of this proposed rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this proposed rule in accordance with 5 U.S.C. 610. Interested parties must

submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2024-D006), in correspondence.

VII. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) applies to this proposed rule. However, these changes to the DFARS do not impose additional information collection requirements to the paperwork burden previously approved by the Office of Management and Budget (OMB) under OMB Control Number 0704-0286, entitled Defense FAR Supplement (DFARS) Part 205, Publicizing Contract Actions, and DFARS 252.205-7000, Provision of Information to Cooperative Agreement Holders.

List of Subjects in 48 CFR Part 252

Government procurement.

Jennifer D. Johnson,

Editor/Publisher, Defense Acquisition Regulations System.

Therefore 48 CFR 252 is proposed to be amended as follows:

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1. The authority citation for 48 CFR part 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

2. Revise and republish section 252.205-7000 to read as follows:

252.205-7000 Provision of Information to Cooperative Agreement Holders.

As prescribed in 205.470, use the following clause:

PROVISION OF INFORMATION TO COOPERATIVE AGREEMENT HOLDERS (DATE)

(a) *Definition.* As used in this clause—

Cooperative agreement holder means a State or local government; a nonprofit organization; a tribal organization (as defined in section 4(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304(1))); or an economic enterprise (as defined in section 3(e) of the Indian Financing Act of 1974 (25 U.S.C. 1452(e))) whether such economic enterprise is organized for profit or nonprofit purposes; which has an agreement with the Under Secretary of Defense for Acquisition and Sustainment to furnish procurement technical assistance to business entities (as defined in 10 U.S.C. 4951).

(b) The Contractor shall provide cooperative agreement holders, upon their request, with a list of those appropriate employees or offices responsible for entering into subcontracts under defense contracts. The list shall include the business address, telephone number, and area of responsibility of each employee or office.

(c) The Contractor need not provide the listing to a particular cooperative agreement holder more frequently than once a year.

(End of clause)

[FR Doc. 2024-11518 Filed: 5/29/2024 8:45 am; Publication Date: 5/30/2024]